



THE CITY OF SAN DIEGO

Redevelopment Agency's Report

DATE ISSUED: November 9, 2005 REPORT NO. RA 05-34

ATTENTION: Honorable Chair and Members of the Redevelopment Agency
Docket of November 15, 2005

SUBJECT: Approval of actions necessary for NTC Foundation to apply for New
Market and Historic Tax Credits

SUMMARY

Issue(s) – Should the Redevelopment Agency take the following actions:

- 1) Approve an assignment of the NTC Foundation's rights and obligations, under the NTC Disposition and Development Agreement, to NTC Liberty Station, Inc. as to specific buildings in the Civic, Arts and Cultural Center?
- 2) Consent to the proposed assignment and assumption of the lease to Buildings 177 and 200 from NTC Foundation to NTC Liberty Station, Inc. and the proposed subleases to NTC Tenant, L.P.?
- 3) Authorize the Redevelopment Agency to enter into ground leases with NTC Liberty Station, Inc. for Buildings 175, 176, 201 and 202 and the proposed subleases to NTC Tenant, L.P.?
- 4) Authorize the Executive Director or designee to subordinate the Agency's leasehold deed of trust relating to the Rehabilitation Grant Agreement, to Clearinghouse NMTC (Sub 8), LLC, a California Limited Liability Company as a qualified lender under the DDA, and a permitted leasehold mortgagee; and assignment of the Rehabilitation Grant Agreement to Wells Fargo Community Development Corporation, a Nevada corporation as security for the Bridge Loan; and execute such Consent, Estoppel, Assignments and Subordination Agreements including the Assignment of Rehabilitation Grant Agreement, Subordination and Consent Agreement, and the Subordination Intercreditor Agreement relating to the NTC Foundation's proposed financing as attached in substantial form as the Executive Director or designee may deem necessary or appropriate?

Executive Director's Recommendation(s) – The Redevelopment Agency should approve the following actions implementing the NTC Foundation's proposed method of financing and their use of New Market and Historic Tax Credits:

- 1) Approve an assignment of the NTC Foundation's rights and obligations, under the NTC Disposition and Development Agreement, to NTC Liberty Station, Inc. as to specific buildings in the NTC Civic, Arts and Cultural Center.
- 2) Consent to the proposed assignment and assumption of the lease to Buildings 177 and 200 from NTC Foundation to NTC Liberty Station, Inc. and the proposed subleases to NTC Tenant, L.P.
- 3) Authorize the Redevelopment Agency to enter into ground leases with NTC Liberty Station, Inc. for Buildings 175, 176, 201 and 202 and the proposed subleases to NTC Tenant, L.P..
- 4) Authorize the Executive Director or designee to subordinate the Agency's leasehold deed of trust relating to the Rehabilitation Grant Agreement, to Clearinghouse NMTC (Sub 8), LLC, a California Limited Liability Company as a qualified lender under the DDA, and a permitted leasehold mortgagee; and assignment of the Rehabilitation Grant Agreement to Wells Fargo Community Development Corporation, a Nevada corporation as security for the Bridge Loan; and execute such Consent, Estoppel, Assignments and Subordination Agreements including the Assignment of Rehabilitation Grant Agreement, Subordination and Consent Agreement, and the Subordination Intercreditor Agreement relating to the NTC Foundation's proposed financing as attached in substantial form as the Executive Director or designee may deem necessary or appropriate.

Other Recommendation(s) – None.

Fiscal Impact – None with this action.

BACKGROUND

The NTC Foundation (Foundation) was established pursuant to Naval Training Center Disposition and Development Agreement (DDA) approved in June 2000, between the Agency and McMillin-NTC, LLC. Pursuant to the DDA, the Foundation is responsible for rehabilitating and managing the twenty-six (26) historic buildings that make up the CCAC. In February 2004, the Agency entered into a Rehabilitation Grant Agreement with the Foundation which provided the Foundation with a grant of \$5.85 million in HUD 108 loan proceeds for the Stage One rehabilitation of Buildings 175, 176, 200, and 201. The Grant from the Agency to the Foundation is evidenced by a Reimbursement Agreement and secured by a deed of trust which has first and senior priority to other liens on these buildings.

The Foundation has commenced a \$27 million capital campaign to raise funds for the rehabilitation of six historic buildings (NTC buildings 175, 176, 177, 200, 201, and 202) which comprise Phase 1 of the Foundation's rehabilitation program (Attachment 1). A component of the Foundation's capital campaign requires that equity be raised through the syndication of New Markets Tax Credits and Historic Tax Credits. The Foundation's use of the tax credit programs and conventional construction and permanent debt facilities will necessitate the Agency subordinating its first lien on the properties to leasehold deeds of trust that will secure the debt financing and Foundation's investor's loans.

DISCUSSION

The New Market Tax Credit (NMTC) program is administered by the U.S. Department of the Treasury to stimulate increased investment and economic growth in older communities. In return for investing in projects in these older communities, corporate investors in need of tax deductions may claim a credit against Federal income taxes totaling 39% of the investment, allocated over 7 years.

The Historic Tax Credits program is administered by the National Park Service in partnership with the Internal Revenue Service. In exchange for investing in an eligible historic rehabilitation project, tax credits equal to 20% of the rehabilitation costs can be transferred to a corporate investor. The NTC Historic District was placed on the National Register of Historic Places in July 2001, which makes it eligible for the Historic Tax Credits program.

The syndication of tax credits to third-party corporate investors is the most common method of using tax credits. Syndicated tax credit transactions require the creation of a legal entity between the tax credit investor and, in this case, NTC Foundation. In order for the Foundation, a non-profit tax exempt organization, to participate in the tax credits markets, it must create a wholly-owned for-profit subsidiary. The Foundation has proposed establishing three for-profit subsidiaries, which will hold the leasehold and subleasehold interests, respectively, in the Phase 1 buildings. Through these subsidiaries the Foundation will be eligible for New Market Tax Credits and Historic Tax Credits equal to approximately \$22 million which can be exchanged with corporate entities for investment dollars. The corporate investor for purposes of the New Market Tax Credits is Wells Fargo; the investor for the Historic Tax Credits is CCG Historic Partners Fund XXXIX, LLC., which has Wells Fargo as the sole investor.

The subsidiaries the Foundation is proposing to form are NTC Liberty Station, Inc., a wholly owned taxable subsidiary of the Foundation, which will lease the six Phase 1 buildings from the Redevelopment Agency. NTC Liberty Station, Inc. will subsequently enter into a 19 year sublease for each of the buildings with the second Foundation subsidiary, NTC Tenant, L.P., which will be a limited partnership of the historic tax credits investor, CCG Historic Partners Fund XXXIX, LLC, as limited partner, and a third Foundation subsidiary, NTC Manager, Inc., as the managing general partner.

Requested Actions

Pursuant to the NTC DDA, McMillin-NTC, LLC as the Master Developer, assigned its rights and obligations to the Phase I buildings (NTC buildings 175, 176, 177, 200, 201, and 202) to the NTC Foundation. Approval of today's action would authorize the NTC Foundation to assign its rights and obligations for these buildings under the DDA to its subsidiary, NTC Liberty Station, Inc.

The Agency has entered into leases with the NTC Foundation on NTC buildings 177 and 200. Approval of today's action would authorize the assignment of the Foundation's leaseholds in these to buildings to its subsidiary NTC Liberty Station, Inc. and would authorize NTC Liberty Station, Inc to enter into subleases with NTC Tenant, L.P. Approval would also authorize the Agency to enter into ground leases directly with NTC Liberty Station, Inc. for the remaining Phase 1 buildings (NTC buildings 175, 176, 201 and 202) and for NTC Liberty Station, Inc., subsequently, to enter into subleases with NTC Tenant, L.P.

Finally, approval of today's actions would authorize the Executive Director or designee to subordinate the Agency's leasehold deed of trust relating to the Rehabilitation Grant Agreement and, as may be necessary, to execute consent, estoppel and subordination agreements relating to the Foundation's proposed use of New Market Tax Credits and Historic Tax Credits.

ALTERNATIVE(S)

Do not approve the actions.

Respectfully submitted,

Maureen Ostrye
Deputy Executive Director

Debra Fischle-Faulk
Assistant Executive Director

Fischle-Faulk/Ostrye/LD

Attachments: 1. Map of Phase 1
2. Assignment of Rehabilitation Grant Agreement
3. Subordination and Consent Agreement
4. Subordination Intercreditor Agreement